

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Third Amended Statement
of Issues Regarding:

SAHARA DUNES CASINO, LP,
Provisional License Number GEOW-002466;
the sole owner of, and doing business as,
LAKE ELSINORE HOTEL AND CASINO;

Partners of Sahara Dunes Casino, LP:
Ted Kingston,
Joseph Kingston, and
Sahara Dunes Management, Inc.

Shareholders of Sahara Dunes
Management, Inc.:
Ted Kingston, and
Joseph Kingston,

Respondent

OAH No. 2017070210

BGC Case No. BGC-HQ2017-00001SL

**DECISION AND ORDER OF
NONADOPTION OF PROPOSED
DECISION AND REFERRAL FOR
REHEARING. (Gov. Code § 11517(c)(2)(D);
Cal. Code. Regs., tit. 1, § 1050)**

**DECISION AND ORDER OF NONADOPTION OF PROPOSED DECISION AND
REFERRAL FOR REHEARING**

To the Honorable Presiding Administrative Law Judge Donald P. Cole

1. Attached is a copy of the June 7, 2019 Proposed Decision of the Honorable Administrative Law Judge Theresa M. Brehl (Proposed Decision) in the above-titled matter submitted to the California Gambling Control Commission (Commission) under the provisions of Government Code section 11517 along with the copy of the proof of service. You are advised that the Commission considered, but did not adopt, this Proposed Decision and that the Commission hereby refers the matter back to Administrative Law Judge Brehl, if reasonably available, for consideration of additional evidence and related issues identified below in accordance with Government Code section 11517(c)(2)(D) and California Code of Regulations, title 1, section 1050.

1 2. As the Bureau of Gambling Control (Bureau), with representation from the Attorney
2 General's office, served as the complainant in the above-titled hearing, the Commission hereby
3 requests the Bureau comply with the requirements of California Code of Regulations, title 1,
4 section 1018 in presenting this referred rehearing in compliance with California Code of
5 Regulations, title 1, section 1050(a)(1).

6 3. The Commission cannot adopt the Proposed Decision because the evidence is simply
7 not sufficient to determine whether the applicants are suitable – or not – to conduct controlled
8 gambling in California. While the Proposed Decision determined that Joseph Kingston's failure to
9 submit information to the Bureau was sufficient grounds for licensure denial, it did not address
10 questions of suitability of all parties involved. Moreover no evidence or argument was offered
11 about any material involvement, directly or indirectly, with the gambling operation or ownership
12 or management of it, by other unqualified or disqualified persons. The evidence requested below
13 is necessary to determine suitability under Business and Professions Code section 19856, 19857,
14 and 19859.

15 4. To that end, during the rehearing of the above-titled matter, the Commission
16 specifically requests consideration of the following evidence and issues:

17
18 **TRANSACTIONS**

19 1) Evidence regarding transactions concerning Clyde Kingston, Rachel Kingston, and Ted
20 Kingston including without limit:

21 a. How was Clyde Kingston's interests in Sahara Dunes Casino, LP (SDC) and
22 Sahara Dunes Casino Management, Inc./JTI, Inc. (SDM) "inherited, or otherwise
23 acquired" by Ted Kingston as described in the stipulation between the parties,
24 Exhibit 62, page 4, line 16?

25
26 b. When, how, and why did these alleged transactions occur?
27
28

- 1 c. Did any regulator, ostensibly, approve these transactions and provide
2 documentation of those approvals?
3
4 d. Documents concerning these transactions and any approvals.
5
6 e. Provide the letter from Keith Sharp, DA for SDC, from 2009 requesting the
7 Commission agendaize the transaction from Clyde Kingston to Ted Kingston and
8 documents related there to. Include any responses or other correspondence, if any,
9 from other parties regarding this request.
10
11 f. Don't these purported transactions concerning ownership in SDC and SDM
12 require *prior* Commission approval under Business and Professions Code sections
13 19892 and 19904 or else are void?
14
15 g. Whether other parties must submit applications for licensure and what transactions
16 still need to be approved because the Commission has not approved these transfers
17 in SDC and SDM?
18
19 h. Can the Commission retroactively approve these possible transfers in SDC and
20 SDM under Business and Professions Code sections 19892 and 19904 in light of
21 the alleged ownership in the above-titled hearing?
22
23 2) Evidence concerning transactions between Joseph Kingston and Chad Benson and the
24 impact on SDC's potential suitability including without limit:
25 a. Provide all evidence and documentation regarding the valuation of Joseph
26 Kingston's ownership interest in SDC and SDM and the alleged debts the
27
28

purported Buyer would be assuming under the transaction

- b. Do the proposed transactions comply with the Gambling Control Act (Act)?
- c. Who is providing the funds, financing, or debt for the transactions and what are the sources of funds?
- d. What are potential conditions that might be appropriate to impose on the transactions?
- e. Does the Bureau have any issues or concerns with the proffered transactions?
- f. Are there any concerns or conflicts of interests with the alleged valuation of SDC and SDM as performed by Kyle Kingston, CPA for Mitchell and Associates, including but not limited to any possible familial relationship to Joseph Kingston or Chad Benson or other parties with potential interests in this transaction or Casino revenues?
- g. Was the valuation by Kyle Kingston performed at arm's length and who was it performed for?

SDC'S PROVISIONAL LICENSE

- 3) Evidence regarding SDC's provisional license since it was initially awarded to present, and the application of Senate Bill 8, Chapter 867, Section 62 to the provisional license's current and continuing validity including without limit:.

- 1 a. Whether, based upon Senate Bill 8, Chapter 867, Section 62(b)(3), the provisional
2 license is rendered *invalid* upon final action on SDC's original 1999 application?
3
4 b. Whether, under Senate Bill 8, Chapter 867, Sec 62(b)(3), a provisional license can
5 remain valid where the Commission denies the underlying 1999 applications but
6 stays that denial for a finite or indeterminate period?
7

8 **BUREAU BACKGROUND INVESTIGATIONS**

- 9 4) Evidence regarding the applications for Joseph Kingston, Ted Kingston, Clyde Kingston,
10 SDC, and SDM submitted in or around 1999.
11
12 5) Evidence regarding Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and SDM's
13 applications from or around 1999 including without limit:
14 a. Were the 1999 applications complete when submitted to the state?
15
16 b. Were there any deficiencies in the 1999 applications rendering them incomplete
17 that needed to be addressed by SDC and whether those deficiencies still remain
18 today?
19
20 6) The Bureau's complete background investigation reports from or around 2009 concerning
21 the 1999 applications for Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and
22 SDM.
23
24 7) Evidence regarding the Bureau's background investigations from or around 2009
25 concerning Joseph Kingston, Ted Kingston, Clyde Kingston, SDC, and SDM's
26 applications including without limit, the alleged:
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28

- 1 a. Failure to disclose required information;
- 2
- 3 b. Failure to maintain adequate records;
- 4
- 5 c. Use of inappropriate accounting methods;
- 6
- 7 d. Failure to notify the Commission of transfers of ownership interest; and
- 8
- 9 e. Continued employment of a key employee with a felony conviction.
- 10

11 8) Evidence regarding the Bureau's 2016 Bureau Report including without limit:

- 12 a. Allegations that the applicants committed numerous violations of the Act and the
- 13 regulations promulgated thereunder in the operation and management of the
- 14 Casino.
- 15

16 9) Evidence regarding Ted Kingston's current potential suitability including without limit:

- 17 a. Financial records previously redacted in the administrative record.
- 18
- 19 b. Any financial arraignments and or transactions with the named applicants and
- 20 affiliates or interested parties.
- 21
- 22 c. Evidence related to Ted Kingston's alleged failure to provide information
- 23 requested by the Bureau in or around 2016.
- 24
- 25 d. Whether Ted Kingston has a spouse with a financial interest, including for instance
- 26 a community property interest, in SDC or SDM and whether they require
- 27 licensure?
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10) Evidence concerning SDC's suitability including without limit:

- a. Financial records previously redacted in the administrative record.
- b. Evidence concerning the operation of Lake Elsinore Hotel and Casino in or out of compliance with the Act including any supporting documentation for the Letters of Warning identified in the 2016 Bureau Report including, but not limited to, compliance checklists.
- c. Concerns raised in the 2009 Bureau Report and 2016 Bureau Report.
- d. Financial arraignments, transactions or agreements with the applicants and affiliates.

11) Evidence concerning SDM's suitability including without limit:

- a. Evidence concerning the operation of Lake Elsinore Hotel and Casino in or out of compliance with the Act including any supporting documentation for the letters of warning identified in the 2016 Bureau Report including, but not limited to, compliance checklists.
- b. Documents or statements related to the concerns raised in the 2009 Bureau Report and 2016 Bureau Report.
- c. Financial records previously redacted in the administrative record.
- d. Evidence regarding the fictitious business name change to JTI, Inc. and the alleged failure to notify the Bureau and Commission by Joseph Kingston and Ted Kingston and any other parties.

- 1 e. Include any financial arraignments and or transactions with the named applicants
2 and affiliates.

3
4 12) Evidence regarding Chad Benson's individual suitability, as it relates to the proposed
5 transaction, and his involvement with SDC including without limit:

- 6 a. Has the Bureau performed a background investigation on Chad Benson?
7
8 b. Has the Bureau identified any issues or concerns with Chad Benson's application?
9
10 c. Has the Bureau identified any concerns with Chad Benson's financial history or
11 suitability?
12
13 d. Does Chad Benson have a spouse who would have a financial interest, including
14 for instance a community property interest, in SDC or SDM that requires
15 licensure?
16
17 e. Include any financial arraignments and or transactions with the named applicants
18 and affiliates.

19
20 13) Relevant issues concerning the above items 5) - 13).

- 21 a. Whether Joseph Kingston, Ted Kingston, SDC, and SDM and any other parties
22 must submit new applications in light of the Commission not yet taking final
23 action on the 1999 applications?
24
25 b. Has the Commission or Bureau ever required new applications when the
26 Commission has not acted on prior applications and where those prior applications
27
28

1 remain pending?

- 2
- 3 c. Whether the Commission is required to act on the 1999 applications (i.e. approve,
- 4 approve with conditions, deny, or abandon) before considering subsequent
- 5 applications?
- 6

7 **OTHER POTENTIAL APPLICANTS**

8 14) Are there any other individuals or entities that have or may exert significant influence

9 over SDC, SDM, Joseph Kingston, or Ted Kingston including but not limited to:

10

- 11 a. Michelle Kingston-Knighton;
- 12
- 13 b. Rachel Kingston;
- 14
- 15 c. Individuals with a criminal record, such as the previously identified key employee
- 16 with a criminal record; and
- 17
- 18 d. Any others such as family members, spouses, or affiliates in this jurisdiction or in
- 19 other jurisdictions?
- 20

21 **POSSIBLE PARTIAL FINAL ACTION RELATED TO JOSEPH KINGSTON**

22 15) Whether the Commission can deny Joseph Kingston a license and allow him to divest his

23 interest as a partner and a shareholder under Business and Professions Code section 19882

24 and 19892 while simultaneously approving SDC, SDM, and Ted Kingston a license?

25

26 16) Whether Business and Professions Code section 19852 means that SDC, SDM, and Ted

27 Kingston are also subject to denial because of Joseph Kingston's stated desires, or can

28

1 they be separately approved under Business and Professions Code section 19882 and
2 19892 if Joseph Kingston is denied licensure?

3
4 17) Can the Commission separately act to deny Joseph Kingston a license as a partner for
5 SDC and a shareholder for SDM and then allow Joseph Kingston to divest his interest
6 under Business and Professions Code sections 19882 and 19892 while refraining from
7 taking action on the other applicants and a new owner is found?

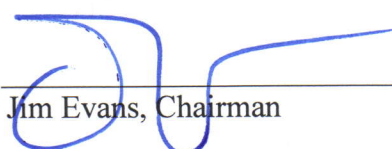
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9 18) If transactions are approved between Joseph Kingston and Chad Benson or another party,
10 can the Commission consider the new owner as part of the above-titled evidentiary
11 hearing or would this require a separate Commission meeting or evidentiary hearing?

12 19) Can this possible separate Commission meeting or evidentiary hearing occur before the
13 conclusion of the above-titled matter?


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This Decision and Order is effective immediately.


Dated: 9/12/19

Signature: 
Jim Evans, Chairman

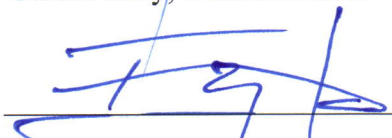
Dated: 9/12/19

Signature: 
Paula LaBrie, Commissioner

Dated: 9/12/19

Signature: 
Gareth Lacy, Commissioner

Dated: 9/12/19

Signature: 
Trang To, Commissioner